

## **REMARKS/ARGUMENTS**

The rejections presented in the Office Action dated July 23, 2009 (hereinafter Office Action), have been considered. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Claims 8, 14, 20, 21, and 24-27 have been canceled without prejudice, and Applicant reserves the opportunity to pursue the subject matter of the claims in a continuing application. Since cancellation of the claims renders any rejections of the claims moot, Applicant requests that each of the rejections of claims 8, 14, 20, 21, and 24-27 be withdrawn.

With respect to the objection to claims 1-27 for alleged informalities, Applicant respectfully traverses. Applicant is unaware of a requirement, and the Office Action does not cite any authority, that a claim must begin with the article “A”, “An”, or “The”. However, in an effort to facilitate prosecution, the claims have been changed in accordance with the Examiner’s request. Applicant accordingly requests that the objection be removed.

With particular respect to the § 101 rejection of claims 1-11 independent claim 1 has been amended to indicate that the claimed method is performed at an apparatus including a plurality of data records and a radio frequency identification communication module thereby tying the method to another statutory category of subject matter. Support for these changes may be found in the original specification, for example, in Figs. 1, 4, and 6 and the corresponding discussion of at least paragraphs [0044], [0106], [0117], and [0121] (using the numbering of the published application, U.S. Publication No. 2007/0236350); therefore, these changes do not introduce new matter. Since the changes are believed to overcome the rejection, Applicant requests that the rejection be withdrawn.

With respect to the further § 101 rejection of claim 1, Applicant traverses. Claim 1 is directed to a method, not a computer medium or computer instructions, as acknowledged by the Examiner at page three in the first section four, “claim 1 is a method”. There is no basis to suggest otherwise. Since § 101 states that “Whoever invents or discovers any new

and useful process”, claim 1 is directed to statutory subject matter. Applicant accordingly requests that the rejection be withdrawn.

Applicant respectfully traverses the § 112, second paragraph, rejection of claims 1-11 because the rejection does not identify what claim language is asserted as being “vague and unclear” except for the examples provided for claims 2 and 5. Applicant notes that the claims are to be interpreted based on the disclosure of the specification, and a claim may not be rejected solely because of the type of language used to define the subject matter (MPEP § 2173.01). For example, claim 1 recites that context information is acquired from an external source, a data record is selected in accordance with the context information, the selected data record is supplied to an entity, and the selected data record is provided by the entity as an identification information for being retrievable by another entity. With respect to claim 2, the claim has been amended to indicate that the environment being scanned is the environment of the apparatus performing the claimed method and the scanning is to determine a presence of an external source (*see, e.g.*, paragraphs [0049] through [0051]). With respect to claim 5, the claim has been amended to characterize that the data records relate to at least one type of information from the group of types of information listed in claim 5. Without further explanation, Applicant submits that the § 112 rejection is improper and requests that the rejection be withdrawn.

With respect to the further § 112 rejection of claim 11, Applicant traverses because the rejection is unsupported. No authority has been presented to suggest that claim 11 is in improper form. Rather, claim 11 is directed to a computer-readable storage medium having computer-executable program code sections stored thereon for carrying out a method. Such format is consistent with the language of a Beauregard claim. *See, e.g.*, *Ex parte Bo Li*, Appeal 2008-1213 (BPAI 2008). Since no authority for the rejection has been presented and the claim is written in an accepted format, the rejection is believed to be improper. Applicant accordingly requests that the rejection be withdrawn.

Without acquiescing to characterizations of the asserted art, Applicant’s claimed subject matter, or to the applications of the asserted art or combinations thereof to Applicant’s claimed subject matter, each of the independent claims has been amended to

characterize that context information is received from an external source and the selected data record provided as identification information by a radio frequency identification communication module is retrievable wirelessly by an external entity through radio frequency identification interrogation. Support for these changes may be found in the original specification, for example, at paragraphs [0076], [0084], [0091], [0093], and [0110]; therefore, the changes do not introduce new matter. Claim 6 has also been amended to characterize that supplying the data record includes configuring the radio frequency identification communication module with the selected data record, as disclosed in paragraphs [0128] and [0133]. The remaining claims have been amended to provide consistency with the above-discussed changes. The pending claims are believed to be patentable over the asserted reference for the reasons set forth below.

The cited teachings of U.S. Publication No. 2004/0039661 by Fuzell-Casey (hereinafter “Fuzell”) do not teach or suggest selecting a data record in accordance with received context information, as claimed in each of the independent claims. Rather, Fuzell is directed to uploading a predefined list to a dedicated server to obtain map information for physically locating the items of the predefined list. Fuzell does not teach or suggest providing the selected data record by a radio frequency identification communication module for being wirelessly retrievable through radio frequency identification interrogation. Notably, Fuzell makes no mention of radio frequency communication. In contrast, Fuzell teaches that the data communication between the portable computing device and the selection server is bi-directional data communication relating to a list, which is uploaded to the selection server and a map and a modified list are downloaded to the device. Without correspondence to each of the claimed limitations, the § 102(e) rejection would be improper. Applicant accordingly requests that the rejection be withdrawn.

Dependent claims 2-7, 9-11, 16-19, 22, and 23 depend from independent claims 1 and 15, respectively, and also stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Fuzell. While Applicant does not acquiesce with the particular rejections to these dependent claims, these rejections are also improper for the reasons discussed above in connection with the independent claims. These dependent claims include all of the

limitations of their respective base claims and any intervening claims and recite additional features which further distinguish these claims from the cited reference. Therefore, the rejection of dependent claims 2-7, 9-11, 16-19, 22, and 23 is improper, and Applicant requests that the rejection be withdrawn.

Further, new claims 28 and 29 have been added. Support for these claims may be found in the specification, for example, at paragraphs [0049], [0069], [0152], and [0153]; therefore, the claims do not introduce new matter. These claims are also believed to be patentable over the asserted reference for the reasons set forth above in connection with the independent claims.

Authorization is given to charge Deposit Account No. 50-3581 (IHN.067.WUS) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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